

RESOLUTION NO. 2009-02

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA, AUTHORIZING THE PARTICIPATION OF SAID CITY IN THE MOTOR FUEL HEDGE PROGRAM OF THE INDIANA BOND BANK FOR THE 2009 BUDGET YEAR, THE EXECUTION OF THE QUALIFIED ENTITY REIMBURSEMENT AGREEMENT IN CONNECTION THEREWITH AND OTHER RELATED MATTERS

WHEREAS, the City of Lafayette, Indiana (the "City") owns and operates a fleet of motor vehicles which motor vehicles are essential to the ability of the City to serve and provide municipal services to the inhabitants of the City, thereby ensuring the safety and well-being of said inhabitants; and

WHEREAS, the Common Council of the City (the "Council"), the legislative body and fiscal body of the City, finds that the availability of motor vehicle fuel, which includes both gasoline and diesel motor fuel (collectively, "Motor Fuel"), is therefore critical to the City in providing such services; and

WHEREAS, the market-driven volatility of Motor Fuel presents a substantial risk to the Motor Fuel budget of the City, which may require the appropriation of additional funds for the purchase of Motor Fuel should prices increase beyond the amount of funds which have been appropriated for such purpose; and

WHEREAS, current market conditions limit the ability of the City to secure Motor Fuel with qualified suppliers of Motor Fuel in a manner which minimizes the adverse impacts of the volatile Motor Fuel market on the budget for the City; and

WHEREAS, the City has been advised by representatives of the Indiana Bond Bank (the "Bond Bank"), including Crowe Horwath LLP and Maverick Energy Consulting, that the Bond Bank has established a motor fuel hedge program (the "Program") pursuant to which "qualified entities", as defined in Indiana Code 5-1.5-1-8, may participate for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability; and

WHEREAS, the Council finds that the City is a qualified entity and is eligible to participate in the Program for the 2009 budget year; and

WHEREAS, the City's Board of Public Works and Safety (the "Board") has considered the matter of the City's participation in the Program and has adopted a resolution recommending to the Council that the City participate in the Program; and

WHEREAS, the Council, having considered the information presented to it, including the recommendation of the Board, finds that (i) participation in the Program will allow the City to manage and mitigate the volatility of Motor Fuel prices in order to achieve stability in the City's Motor Fuel budget for the 2009 budget year, (ii) participation in the Program will enhance

the City's ability to continue to operate its motor vehicle fleet in an economical matter to assure the continued provision of municipal services to the inhabitants of the City, and (iii) the City is authorized to participate in the Program pursuant to Indiana Code 5-1.5, 36-1-4 and 36-9-6; and

WHEREAS, the Bond Bank has caused to be prepared a Qualified Entity Reimbursement Agreement in connection with the Program, attached hereto as Exhibit A and incorporated herein by reference (the "Agreement"), for execution by and between the City and the Bond Bank; and

WHEREAS, the Bond Bank intends to enter into agreements substantially the same as the Agreement with other qualified entities in connection with the Program; and

WHEREAS, the Agreement has been reviewed by the Council, which has had an opportunity to obtain independent advice and counsel with respect thereto, and has also had the opportunity to review the Agreement with the Bond Bank and seek explanation of the provisions thereof from the Bond Bank; and

WHEREAS, the Agreement sets forth the obligations of the City with respect to its participation in the Program during the term of the Agreement; and

WHEREAS, based upon the foregoing, the Council finds and determines that the City should participate in the Program for the 2009 budget year, that the Agreement should be approved and that any other actions necessary to be taken to assure the City's participation in the Program for the 2009 budget year should be approved;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA, AS FOLLOWS:

Section 1. The findings and determinations set forth in the preambles to this Resolution are hereby made findings and determinations of the City.

Section 2. The City is hereby authorized to enter into the Program with the Bond Bank for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability for the 2009 budget year.

Section 3. The Agreement, in the form attached hereto as Exhibit A, is hereby approved by the Council so that the City may participate in the Program. The Mayor of the City is hereby authorized and directed to execute and deliver, and the Controller of the City is hereby authorized and directed to attest, the Agreement, and to approve any such changes in form or substance thereto which are consistent with the terms of this Resolution, such changes to be conclusively evidenced by its execution. The Mayor, Clerk and Controller of the City, are hereby further authorized and directed to take such other actions or deliver such other certificates as are necessary or desirable in connection with the City's participation in the Program and the other documents needed for the City's participation in the Program as they deem necessary or desirable in connection therewith.

Section 4. The obligations of the City under the Agreement shall be payable from and shall not exceed the amount appropriated by the City for Motor Fuel for the 2009 budget year. The Controller is hereby authorized and directed to make any payments necessary to the Bond Bank pursuant to the terms of the Agreement from funds budgeted by the City for Motor Fuel for the 2009 budget year.

Section 5. All resolutions and parts of resolutions in conflict herewith are hereby repealed.

Section 6. This Resolution shall be in full force and effect upon its passage by the Council and approval by the Mayor of the City as required by law.

PASSED AN ADOPTED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA THIS 5th day of January, 2009.

COMMON COUNCIL OF THE
CITY OF LAFAYETTE, INDIANA

Steven P. Meyer ss
Steve Meyer, President

ATTEST:

Cindy Murray ss
Cindy Murray, City Clerk

Presented by me to the Mayor of the City of Lafayette, Indiana, this 5th day of January, 2009, for his signature and approval.

Cindy Murray ss
Cindy Murray, City Clerk

Approved and signed by me as Mayor of the City of Lafayette, Indiana this 5th day of January, 2009.

Tony Roswarski ss
Tony Roswarski, Mayor

ATTEST:

Cindy Murray ss
Cindy Murray, City Clerk

Sponsored by Mayor Tony Roswarski

RESOLUTION NO. 04-2008

A RESOLUTION OF THE BOARD OF PUBLIC WORKS AND SAFETY OF THE CITY OF LAFAYETTE, INDIANA, RECOMMENDING THE PARTICIPATION OF SAID CITY IN THE MOTOR FUEL HEDGE PROGRAM OF THE INDIANA BOND BANK FOR THE 2009 BUDGET YEAR, THE EXECUTION OF THE QUALIFIED ENTITY REIMBURSEMENT AGREEMENT IN CONNECTION THEREWITH AND OTHER RELATED MATTERS

WHEREAS, the City owns and operates a fleet of motor vehicles which motor vehicles are essential to the ability of the City to serve and provide municipal services to the inhabitants of the City, thereby ensuring the safety and well-being of said inhabitants; and

WHEREAS, the Board of Public Works and Safety (the "Board") finds that the availability of motor vehicle fuel, which includes both gasoline and diesel motor fuel (collectively, "Motor Fuel"), is therefore critical to the City in providing such services; and

WHEREAS, the market-driven volatility of Motor Fuel presents a substantial risk to the Motor Fuel budget of the City, which may require the appropriation of additional funds for the purchase of Motor Fuel should prices increase beyond the amount of funds which have been appropriated for such purpose; and

WHEREAS, current market conditions limit the ability of the City to secure Motor Fuel with qualified suppliers of Motor Fuel in a manner which minimizes the adverse impacts of the volatile Motor Fuel market on the budget for the City; and

WHEREAS, the Board has been advised by representatives of the Indiana Bond Bank (the "Bond Bank"), including Crowe Horwath LLP and Maverick Energy Consulting, that the Bond Bank has established a motor fuel hedge program (the "Program") pursuant to which "qualified entities", as defined in Indiana Code 5-1.5-1-8, may participate for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability; and

WHEREAS, the Board finds that the City is a qualified entity and is eligible to participate in the Program for the 2009 budget year; and

WHEREAS, the Board, having considered the information presented to it, finds that (i) participation in the Program will allow the City to manage and mitigate the volatility of Motor Fuel prices in order to achieve stability in the City's Motor Fuel budget for the 2009 budget year, (ii) participation in the Program will enhance the City's ability to continue to operate its motor vehicle fleet in an economical matter to assure the continued provision of municipal services to

the inhabitants of the City, and (iii) the City is authorized to participate in the Program pursuant to Indiana Code 5-1.5, 36-1-4 and 36-9-6; and

WHEREAS, the Bond Bank has caused to be prepared a Qualified Entity Reimbursement Agreement in connection with the Program, attached hereto as Exhibit A and incorporated herein by reference (the "Agreement"), for execution by and between the City and the Bond Bank; and

WHEREAS, the Bond Bank intends to enter into agreements substantially the same as the Agreement with other qualified entities in connection with the Program; and

WHEREAS, the Agreement has been reviewed by the Board, which has had an opportunity to obtain independent advice and counsel with respect thereto, and has also had the opportunity to review the Agreement with the Bond Bank and seek explanation of the provisions thereof from the Bond Bank; and

WHEREAS, the Agreement sets forth the obligations of the City with respect to its participation in the Program during the term of the Agreement; and

WHEREAS, based upon the foregoing, the Board recommends to the Common Council of the City (the "Council") that the City should participate in the Program for the 2009 budget year, that the Agreement should be approved and that any other actions necessary to be taken to assure the City's participation in the Program for the 2009 budget year should be approved;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS AND SAFETY OF THE CITY OF LAFAYETTE, INDIANA, AS FOLLOWS:

Section 1. The findings and determinations set forth in the preambles to this Resolution are hereby made findings and determinations of the Department of Public Works and Safety of the City.

Section 2. The Board hereby recommends to the Council that it authorize the City to enter into the Program with the Bond Bank for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability for the 2009 budget year.

Section 3. The Board hereby recommends to the Council that it approve the Agreement, in the form attached hereto as Exhibit A, so that the City may participate in the Program. The Board further recommends to the Council that it authorize the Mayor, Clerk and Controller of the City, to take such actions or deliver such certificates as are necessary or desirable in connection with the City's participation in the Program and the other documents needed for the City's participation in the Program as they deem necessary or desirable in connection therewith, including execution and delivery of the Agreement.

Section 4. All resolutions and parts of resolutions in conflict herewith are hereby repealed. The 1st Deputy Clerk of the Board is hereby directed to deliver this Resolution to the Council.

Section 5. This Resolution shall be in full force and effect upon its adoption.

PASSED AND ADOPTED at a duly advertised public meeting of the City of Lafayette, Indiana, Board of Public Works and Safety held on the 23rd day of December, 2008.

Board of Public Works and Safety by:

Cindy Murray ss
Cindy Murray, President

Norm Childress ss
Norm Childress, Member

Gary Henriott ss
Gary Henriott, Member

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Tilara McDonald-Treece, Member

Ron Shriner ss
Ron Shriner, Member

ATTEST:

Mindy Miller ss
Mindy Miller, 1st Deputy Clerk

Date: December 23, 2008

Prepared by:
Edward Chosnek, City Attorney